

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

WILLIAM MITCHELL,

Petitioner,

1:14-cv-01854-CL

v.

FINDINGS AND  
RECOMMENDATION

RUSSEL BURGER, et al.,

Respondents.

CLARKE, Magistrate Judge.

Petitioner was a pretrial detainee in the Jackson County Jail at the time he filed this 28 U.S.C. § 2241 proceeding seeking his "immediate release from custody." The record reflects that petitioner has been transferred and is presently in federal custody in the Seatac Federal Detention Center in Seattle, Washington.

By Order (#5) entered November 24, 2014, petitioner was

advised of the exhaustion of state remedies requirement and the policy against federal intervention in state court proceedings. Petitioner was ordered to show cause within 30 days why this proceeding should not be summarily dismissed. That order was re-sent to petitioner at his address of record on December 5, 2015. Although petitioner has filed a Motion to Transfer (#17), he has not complied with the court's order to show cause.

Petitioner's Petition (#1) should be denied for the reasons set forth in the court's Order (#5) and for failure to prosecute. Petitioner's Motion to transfer (#17) should be denied. The clerk of the court should be directed to enter a judgment dismissing this proceeding.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a) (1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a

waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

***Certificate of Appealability***

*Should petitioner appeal, a certificate of appealability should be denied as petitioner has not made a substantial showing of the denial of a constitutional right. See, 28 U.S.C. § 2253(c)(2).*

DATED this 10 day of February, 2015.

  
Mark D. Clarke  
United States Magistrate Judge